

1 UNITED STATES DISTRICT COURT

2 CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION

3 HONORABLE JOHN F. WALTER, U.S. DISTRICT JUDGE

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6 UNITED STATES OF AMERICA,)
7)
8 PLAINTIFF,)
9)
10 vs.) No. CR 15-131 (A) -JFW
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12 TEOFIL BRANK,)
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14 DEFENDANT.)
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13 REPORTER'S TRANSCRIPT OF

14 SENTENCING

15 TUESDAY, OCTOBER 27, 2015

16 9:03 A.M.

17 LOS ANGELES, CALIFORNIA

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24 Official Reporter, U.S. District Court
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LOS ANGELES, CALIFORNIA; TUESDAY, OCTOBER 27, 2015

9:03 A.M.

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4 THE CLERK: Calling item No. 1, CR 15-131(A)-JFW,
5 United States of America versus Teofil Brank.

6 Counsel, please state your appearances.

7 MS. JAIMEZ: Good morning, Your Honor. Kimberly
8 Jaimez on behalf of the United States, and with me at counsel
9 table is Assistant U.S. Attorney Eddie Jaurequi.

10 MS. AHMAD: Good morning, Your Honor. Seema Ahmad and
11 Ashfaq Chowdhury on behalf of Mr. Brank, who is present in
12 custody.

13 THE COURT: All right. Good morning to all.

14 This matter was originally scheduled for imposition of
15 sentence yesterday, October 26, 2015. However, the government
16 raised the issue that there were concerns that the Court lacked
17 jurisdiction to proceed with the sentencing of Mr. Brank due to
18 the pendency of the appeal that the government had filed from
19 the Court's dismissal of one of the counts of the first
20 superseding indictment. The government had indicated that it
21 had made a motion to dismiss the appeal, and that dismissal had
22 not been acted on by the Ninth Circuit yesterday at the time
23 that we were prepared to proceed with sentencing.

24 I have now been provided with a copy of the order of the
25 Ninth Circuit that was filed on October 26th, 2015, and that

1 order indicates that the appellant's motion for voluntary
2 dismissal of the appeal is granted and the appeal is dismissed.
3 The order further states that the Ninth Circuit's order shall
4 be served on the district court and shall act as the mandate of
5 the Ninth Circuit Court of Appeals. So based upon that order,
6 it is my view that the matter is ready to proceed to sentencing
7 today.

8 So may I ask counsel, is there any reason why judgment and
9 sentence should not be imposed at this time?

10 MS. AHMAD: No, Your Honor.

11 MS. JAIMEZ: No, Your Honor.

12 THE COURT: All right. If counsel will approach the
13 lecturn with Mr. Brank, I will then proceed.

14 Has counsel and the defendant read and discussed the
15 presentence report, the revised presentence reports and the
16 various addenda that had been filed by the probation
17 department?

18 MS. AHMAD: Yes, Your Honor.

19 THE COURT: All right. Although the United States
20 guidelines are now advisory, the Court must still consider the
21 advisory guideline range in addition to the other directives
22 set forth in Section 3553(a) and impose a sentence that is
23 sufficient but not greater than necessary to comply with the
24 purposes of the Act.

25 As counsel knows, this Court follows a two-step or a

1 two-phase sentencing process. In phase one, I will determine
2 or calculate the applicable advisory guideline range, which
3 will require the Court to resolve any objections to the
4 presentence guideline calculations as well as any factual
5 disputes. Thereafter, I will determine whether, pursuant to
6 the Sentencing Commission policy statements, any departures
7 from the advisory guidelines apply.

8 In this case, in July of 2015, the defendant was convicted
9 after a jury trial on Counts 1, 2, 3, 4, 5 and 6 of the first
10 superseding indictment.

11 The probation officer filed the original presentence
12 report on August 14th. It appears as document number 310
13 together with the probation officer's recommendation letter.
14 The probation officer subsequently filed various addenda and
15 revised presentence reports that appear as docket numbers 320
16 and 334. The revisions made by the probation officer in the
17 various revised presentence reports did not affect the original
18 guideline calculation.

19 As to the guideline calculation, the probation officer has
20 made the following advisory guideline calculations. In the
21 presentence report, the base level has been calculated at level
22 nine. To that, the probation officer has added a 14-level
23 enhancement set forth in paragraph 30 in connection with the
24 amount of the loss. To that, the probation officer has also
25 added a two-level enhancement or two-level increase for the

1 multiple counts, which is set forth in the probation
2 presentence report. The combined adjusted offense level is
3 calculated at level 25. The probation officer has also
4 calculated defendant's criminal history category at III. The
5 resulting advisory guideline range is 70 to 87 months.

6 The defendant filed his sentencing position paper and
7 raised one phase one issue, and that issue related to the
8 objection to the probation officer's assertion that the
9 defendant is a citizen of another country. The government
10 argued in its recent filing that the immigration status of the
11 defendant is not before the Court. I agree; however, it does
12 appear that it is important with respect to any placement by
13 the Bureau of Prisons of the defendant. So the probation
14 officer I think has correctly revised the presentence report to
15 indicate on page 3 that the citizenship -- United States
16 citizenship verification pending, as well as immigration
17 status, naturalized citizen verification pending. So I think
18 that should have addressed the defendant's concerns with
19 respect to the presentence report.

20 MS. AHMAD: Yes, Your Honor.

21 THE COURT: All right. I don't see any other phase
22 one issues raised by the defense, but if I've missed any,
23 please let me know.

24 MS. AHMAD: No, Your Honor.

25 THE COURT: The government has also filed its

1 sentencing position paper. That was filed on -- the initial
2 one was filed on October 9th and it appears as document number
3 326. I have reviewed that position paper, and it doesn't
4 appear that the government has raised any phase one issues, but
5 I want to confirm with counsel that that's correct.

6 MS. JAIMEZ: That's correct, Your Honor.

7 THE COURT: All right. If there are no other phase
8 one issues or there are no phase one issues, then I will
9 conclude phase one and calculate the advisory guideline
10 consistent with the probation officer's calculations, and that
11 is a total offense level of 25, defendant's criminal history
12 category a category III, and the resulting advisory guideline
13 range of 70 to 87 months.

14 After calculating the advisory guideline range, in phase
15 two I must consider the Congressional goals of sentencing as
16 set forth in the Sentencing Reform Act and impose a sentence
17 that is sufficient but not greater than necessary to reflect
18 the principles stated in 3553(a) and accomplish the goals or
19 needs of sentencing as set forth in Section 3553(a)(2).

20 I've read all of the materials that have been submitted by
21 counsel, but certainly I will hear argument from counsel. But
22 before I do that, there is one additional housekeeping matter
23 that, in light of the government's position that I didn't have
24 jurisdiction, I withheld, and that is the unopposed ex parte
25 application for an order to transfer Mr. Brank to a conference

1 room, and that application is unopposed, and so I'm going to
2 sign that application, and I'll ask the courtroom deputy to
3 file that order today.

4 So I will hear from defense counsel.

5 Let me ask the government first, however, does the victim
6 in this case wish to be heard?

7 MS. JAIMEZ: Your Honor, my understanding is that the
8 victim's counsel wishes to be heard on behalf of the victim.

9 THE COURT: All right. Then let me hear from the
10 victim's counsel first before I hear from the defendant.

11 MR. AXEL: Yes, Your Honor. Thank you. Very briefly.

12 The victim is present in court. He did testify
13 extensively, obviously, during the trial about the crimes and
14 the impact they've had. Obviously, it's been very difficult
15 for him. He did want to be here, and he is here, to show
16 respect for the process and, obviously, as an interested
17 observer. At the same time, given the emotional toll involved,
18 he's asked me to just say a few words on his behalf.

19 First, he asked me to thank the Court for the time
20 afforded to this case and for the consideration given to all
21 aspects of it. Of course, the statute requires that victims be
22 treated with fairness and respect, and he -- I know he feels
23 that he has been treated with fairness and with respect in this
24 courtroom, is grateful for that.

25 Second, he did testify to the impact that the crimes had

1 on him, and I think equally significantly, we just wanted to
2 highlight for the Court the defendant's post-offense conduct.

3 As described in the government's papers, the defendant did
4 continue to harm the victim even after the defendant was
5 arrested. First, as the Court is aware from the record, he
6 tried to persuade the victim to drop the charges, and then when
7 that failed, he falsely accused the victim of various things to
8 try to intimidate him and punish him, in our view, for having
9 come forward and turned the case over to the authorities.
10 Given the pattern of conduct, both the criminal history of the
11 offense and post-offense conduct, it's our view that he was and
12 remains a danger to the community.

13 Finally, Your Honor, although the victim knew the adverse
14 impact of coming forward to law enforcement was likely to have
15 on his own life, he did do the right thing by coming forward
16 and turning the case over to the authorities.

17 THE COURT: Well, he really had no choice. Based upon
18 what had gone on, it would appear to me that -- of course, you
19 know, I certainly am sympathetic to the victim in this case;
20 however, these events were of his own creation. He created
21 this dilemma that he found himself in, and unfortunately for
22 him, given Mr. Brank's conduct in terms of his continuing
23 efforts to extort money from the victim, he really had no
24 choice but to go to law enforcement, otherwise he would be
25 plagued with Mr. Brank and his efforts to continue to extort

1 money for, who knows, for the rest of his life.

2 MR. AXEL: Yeah. It's a good thing -- I will say he
3 did come forward before the successive attempts. That
4 happened -- but absolutely, look, I think he felt that he had
5 no choice, and he did it, and I think it was the right thing.

6 The offense conduct, obviously, is technologically easy
7 for someone like the defendant to commit, and in our view is
8 highly destructive to victims.

9 So we would ask that the Court impose a guideline sentence
10 in order to promote respect for the law, to send an appropriate
11 message of deterrence, to provide just punishment, and to
12 protect the victim and the public.

13 Thank you, Your Honor.

14 THE COURT: All right.

15 MS. AHMAD: Thank you, Your Honor.

16 The Court clearly has a full understanding of the offense
17 conduct in this case. It's been briefed thoroughly, and
18 obviously, we sat for trial in this case, and I think a
19 question of the facts and what happened and what Mr. Brank did
20 is not really in question. I would submit to the Court, Your
21 Honor, that I do not believe that this case is a guidelines
22 case, for several reasons.

23 One, as we know, the guidelines are primarily driven by
24 the loss amount, the plus-14 enhancement in this case, and I
25 don't think that that's a good proxy for what I understand is

1 the harm that has been suffered by the victim in this case.

2 Moreover, Your Honor, I just would like to talk very
3 briefly about Mr. Brank and how he came to this position in his
4 life. It's a little bit difficult because, clearly, it's
5 always hard for a defense attorney to see a client brought for
6 sentencing, especially after a very contested trial. But
7 Mr. Chowdhury and I have spent quite a bit of time with
8 Mr. Brank, and what has come out, Your Honor, is what I view as
9 a painful and tragic past.

10 I think as the Court knows from the PSR and from our
11 papers, this case has allowed Mr. Brank to really look into his
12 childhood and see how that has shaped him. And I say this
13 coming from a perspective of not always having the smoothest
14 relationship with Mr. Brank and it coming out in various
15 conversations that his father was very, very, very physically
16 abusive: chaining him, sometimes to his bed, giving him a
17 bucket to urinate in; beating him; beating his brothers and
18 sisters. His mom was violent, throwing knives at the kids,
19 verbally abusive, and she tried to commit suicide, and
20 Mr. Brank was one of the children that saw her in the garage,
21 hanging, before his father cut her down. More recently I found
22 out that when the family didn't have enough food for the 10
23 kids, she would feed them sleeping pills just to pacify them.

24 It's not meant to excuse Mr. Brank's behavior, and I again
25 want to acknowledge that notwithstanding my issues with

1 Mr. Burns and the wealth and the power and his own actions that
2 play in this case, I do understand that this must have been
3 incredibly scary and traumatic for him. I just ask the Court
4 to consider who Mr. Brank is and how he got to this point in
5 his life and to think about whether a heavy term of custody
6 really does promote the ends of justice in this case. I don't
7 think that a term of four, five, six years is required for
8 either specific or general deterrence in this case, Your Honor.

9 This was a highly specific relationship that Mr. Brank had
10 with the victim for two years, much of which we don't really
11 have a full understanding of. It's not a sort of easily
12 repeatable, I think, offense in terms of general deterrence,
13 and I don't think a term of custody is going to rehabilitate
14 him and help him deal with the issues that got him to this
15 place.

16 I have seen, in my conversations with him, this desire to
17 have a productive, quality life, and I think he knows that he's
18 going to have to do the therapeutic and the psychological work
19 to get there. I know his girlfriend, Ms. Buholtz, who's here,
20 who's been at every court appearance, desperately wants him to
21 get the mental health treatment that he needs.

22 And with that, Your Honor, I understand that a year and a
23 day may seem excessively lenient. I would ask the Court to
24 think about imposing a term of 24 months, with a recommendation
25 to RDAP for Mr. Brank to address some of the substance abuse

1 issues that got him to this place.

2 Thank you, Your Honor.

3 THE COURT: One of the problems I have with this case
4 is that Mr. Brank has apparently either decided at the outset,
5 or as the case developed, not to accept any form of
6 responsibility for his criminal conduct. As his friend,
7 Mr. Hattig, points out in his letter, I, on several occasions
8 during the course of these proceedings -- and you're correct,
9 it was a hotly contested matter. And I certainly disagree with
10 Mr. Hattig's observations that is somehow critical or critical
11 of your, defense counsel's, performance, because you served
12 Mr. Brank not only well in this case, but above and beyond
13 well. The representation that you provided him was excellent,
14 beginning with the motion to suppress the gun, and through and
15 including the motion to dismiss the 924(c) count. Of course,
16 you had a little help from the U.S. Supreme Court. But I can't
17 remember, and I certainly don't have the ability to go -- I do
18 have the ability, but it's really not that important, how many
19 times that I tried to communicate to Mr. Brank in open court in
20 my comments. I think at one point in time we talked about the
21 claim of right defense, and I opined -- in "opine," I suggested
22 that maybe it was viable with respect to the \$500,000, but it
23 certainly wasn't in terms of the million dollars.

24 Notwithstanding all of that, Mr. Brank, through not only
25 I'm sure the advice that you gave him in terms of the

1 overwhelming nature of the evidence in this case, but more
2 importantly, as indicated in Mr. Hattig's letter, he chose not
3 to accept responsibility and go forward. And the question that
4 I have in my mind -- and certainly he had the right to go to
5 trial. He has the absolute right to have the government prove
6 his guilt beyond a reasonable doubt. I suspect deep down that
7 this going to trial was a continuation of his efforts to harm
8 the victim in this case, because he recognized that the victim
9 would have to come up, get on the stand, and he would have to
10 admit to some very, basically, criminal conduct, and that
11 obviously could have been avoided if Mr. Brank had chose to
12 dispose of the case.

13 I just don't see at any point in time during the course of
14 these proceedings, including up to today, that Mr. Brank has
15 accepted responsibility for what he has done. It's just a
16 cold, calculated effort to not only extort money but also to
17 harm the reputation of the victim in this case.

18 And I'm going to inquire of the government as to the
19 status of any investigation with respect to the victim in this
20 case, because certainly there was an admission of criminal
21 conduct on the witness stand.

22 So that's my fundamental problem with fashioning a
23 sentence in this case. I just can't simply get over the hurdle
24 of Mr. Brank's conduct not only in connection with the offense
25 conduct, but even after he was arrested, as the government

1 points out in its sentencing position papers, to continue to
2 try to harm the client in various communications with the -- I
3 call it loosely "the press." And also the fashioning of the
4 defense. We went through a series of in camera filings where I
5 required an offer of proof as to what the defense was going to
6 be, and ultimately that defense was not put on, but he
7 communicated that defense to, apparently, the press, and it's
8 just a continuing effort, evil, evil effort on Mr. Brank's part
9 to harm the victim in this case. I understand that, you know,
10 relationships come to an end, but at some point in time you
11 have to get on with life. And that's the problem I have with
12 Mr. Brank.

13 So you can address that, or if Mr. Brank chooses to
14 address that, I certainly want to hear from Mr. Brank.

15 MS. AHMAD: I'm sure Mr. Brank will address that, Your
16 Honor. I'll just briefly address it as well.

17 I can just say categorically that the decision to go to
18 trial did not have to do with harming the victim. I can see
19 why it would appear that way from not having been in the
20 conversations that Mr. Chowdhury and I had with Mr. Brank, but
21 that was not at all part of the calculus.

22 My intention in going into Mr. Brank's background and
23 history is to demonstrate to the Court that he's -- he's a
24 young man with severely impaired judgment that I think is
25 really the result of unimaginable trauma. I mean, you could

1 imagine. He's been sexually abused, physically abused,
2 verbally abused. And I know the Court sees defendants come in
3 here all the time with that kind of history. What I can say
4 is -- and Mr. Chowdhury and I again, we have this understanding
5 of how that has deeply and severely affected him. I mean, this
6 is a young man who at the age of 20 decided to go into an
7 industry to perform sex acts for pay, and then decided to
8 prostitute himself to Mr. Burns. He's not someone who has made
9 productive, thoughtful decisions about his life, and I think
10 that in part he bears responsibility for that, and I think this
11 case is helping him turn a corner in understanding that, and in
12 part I think that that is the result of a young man who was
13 repeatedly, repeatedly abused.

14 I understand from the papers and from the look of the
15 case, he appears to be greedy and evil, and I'm asking the
16 Court to consider that he has made mistakes and he has done
17 harm in this case, but I don't think that that's the summary of
18 who he is. I think that he is in part born out of the trauma
19 that he has suffered, and I think he has the desire and the
20 ability now, the early stages of the ability, to self-recognize
21 and to try to work on that.

22 THE COURT: All right. Does your client wish to be
23 heard?

24 MS. AHMAD: Yes, Your Honor.

25 THE DEFENDANT: Before trial, you know, I was full of

1 pride. You know, I -- I thought I can get away with whatever I
2 wanted to do. And I was wrong. I messed up.

3 I want to apologize to Mr. Burns. I betrayed our
4 friendship and loyalty, and I've done the unthinkable, and I
5 regret it.

6 Losing -- losing trial is a reality check and major
7 wake-up call. It completely broke me. And I want to change.
8 I've -- I've came to acceptance of this, and I have to take
9 responsibility for it. I do regret my actions, and I don't
10 give any excuses for it. I did what I did.

11 I want to better myself. I need help. I am afraid.
12 Seventy, 80 months, it scares me a lot. I have learned my
13 lesson, and I want to start building myself back up, living an
14 honest life, doing good. I want to get a college education. I
15 want to start a family. And I'm afraid of the time that I'm
16 going to be facing. I'm going to lose my partner, my
17 girlfriend, because, you know, and she's -- she's been there
18 for me, and she's helping me. I owe it to myself and to her to
19 change my ways, and I really do want to change, and I'm asking
20 for a second chance, for mercy.

21 This is the scariest -- it's hard to take in, but my
22 actions have consequences, and through pain and suffering we
23 learn, and I just want you to know that I do regret it, and --
24 and I was just full of pride.

25 THE COURT: I don't understand. What do you mean by

1 you were full of pride?

2 THE DEFENDANT: My ego. I -- my nose was too high in
3 the sky. I don't know how else to put it. I thought I was
4 better, I deserved better, I deserved whatever I thought I can
5 do, and I was wrong.

6 THE COURT: But after you got caught, I mean, that
7 whole concept goes out the window. Now you're faced with a
8 criminal prosecution. You're faced -- I assume that you
9 understood what I was trying to communicate to you through
10 statements during the course of the trial in terms of the
11 outcome. I don't think there was any doubt, based upon the
12 overwhelming evidence, that you were going to be convicted, yet
13 you didn't accept responsibility, and there is a time when, you
14 know, your pride is over. You're now caught. You're now
15 facing the prospects of a criminal prosecution and how best to
16 resolve that criminal prosecution, and to wait until after a
17 conviction to stand before me and say that you accept
18 responsibility really comes a little too late.

19 THE DEFENDANT: I understand that.

20 THE COURT: I see defendants come in every Monday who
21 stand before me for sentencing and are sorry for what they've
22 done, and obviously I have to make a determination as to
23 whether or not that's a credible statement, and I make that
24 determination based upon the conduct of what went on during the
25 course of the case. And in your situation, not only did you

1 not stop trying to hurt Mr. Burns after you were arrested, you
2 continued while you were in custody.

3 THE DEFENDANT: I'm -- was very stubborn. I don't
4 know how to explain that. It was just, in my head, just things
5 were different, and it wasn't till losing trial that really hit
6 me.

7 THE COURT: Well, obviously it was going to hit you
8 then, when the jury comes back with a guilty verdict.

9 THE DEFENDANT: It did.

10 THE COURT: And there was no doubt in most reasonable
11 individual person's mind that that's what was going to happen
12 based upon the evidence.

13 THE DEFENDANT: I don't know what was going on up in
14 my head. All I know is that I needed this wake-up call.

15 THE COURT: Well, you certainly got it.

16 THE DEFENDANT: Yeah. And I just, I hope you can help
17 me, work with me, allow me to show you my potential. I'm
18 afraid to spend the rest of my 20s, and more, in prison. It's
19 not the life I want. I can do so much better, and I want to
20 show you. Just work with me, please, if you can.

21 THE COURT: I'm looking at the presentence report,
22 specifically the education and employment. Based upon the
23 presentence report, you graduated from high school in 2007.
24 Then what did you do thereafter in terms of employment? The
25 probation officer, in paragraph 87, commences with your

1 employment as an actor in the gay pornography print and film
2 business.

3 THE DEFENDANT: Well, I just got into construction. I
4 couldn't afford college, and, you know, my self-worth was
5 destroyed, and I didn't think I could do better. I didn't have
6 someone there to guide me, to push me toward the right path,
7 and it just cumulated into bad choices, and...

8 THE COURT: So I see from January of 2008 to January
9 2013 you worked as a residential painter.

10 THE DEFENDANT: Yes.

11 THE COURT: All right. Is there anything else you
12 want to add?

13 THE DEFENDANT: I want to apologize to the courts for
14 this time, for this whole process, apologize to the government
15 for continuing it and taking it to trial. I shouldn't have
16 done that, and I do regret it. I'm very stubborn, and --
17 and -- and I am sorry. I guess that's it. I apologize. I'm
18 sorry.

19 THE COURT: Anything else?

20 THE DEFENDANT: Help me, God. I don't know.

21 MS. AHMAD: Nothing further, Your Honor.

22 THE COURT: All right. Does the government have
23 anything it wishes to add to its papers?

24 MS. JAIMEZ: Yes, Your Honor.

25 Your Honor, the government is recommending a sentence in

1 the middle of the guideline range, 80 months. The government
2 is not recommending high end. The government did not seek an
3 upward departure to account for the defendant's actions in
4 connection with obtaining a gun and bringing a gun in his
5 getaway car, even though those actions are not reflected in the
6 guideline range. The Court went over the offense conduct, Your
7 Honor. The base offense level and the specific offense
8 characteristics don't account for the gun. Notwithstanding,
9 Your Honor, the government has conformed with the
10 recommendation, within the guidelines, simply in the middle of
11 the range.

12 Defense, on the other hand, Your Honor, is now requesting
13 24 months, which is equivalent to essentially a 12-level
14 variance, Your Honor, on the basis of a characteristic, Your
15 Honor, common to most defendants that appear before this Court.
16 Many defendants, unfortunately, sadly, have faced trauma in
17 their past, have faced difficult childhoods, and accept
18 responsibility late. However, Your Honor, those facts alone do
19 not merit the type of substantial variance that this defense is
20 asking for. Rather, a mid-range sentence of 80 months is
21 sufficient but not greater than necessary to meet the
22 sentencing goals articulated in 3553(a).

23 Your Honor, this was a serious offense. This offense
24 involved both completed extortion as well as attempted
25 extortion. The defendant was able to obtain a \$500,000 wire

1 transfer as well as an Audi, and while the victim is expected
2 to receive back most of those funds, over \$50,000 have been
3 lost.

4 In addition to the loss financially, defense is correct
5 that the financial loss is not a sufficient proxy for the harm
6 in this case. It is one aspect, but it is not the entire
7 aspect. As the Court has already acknowledged and saw in
8 trial, the victim has suffered substantial psychological harm
9 as a result of these proceedings and as a result of the
10 defendant's conduct, both --

11 THE COURT: Is there an investigation pending over the
12 conduct of the victim?

13 MS. JAIMEZ: Your Honor, the government has no
14 information about a pending investigation at this time.

15 THE COURT: Well, is the government undertaking any
16 such investigation?

17 MS. JAIMEZ: Your Honor, I have no information about
18 any investigation at this time.

19 THE COURT: What do you mean you don't have any
20 information? You're the government. You're representing the
21 government.

22 MS. JAIMEZ: Yes, Your Honor. However, the government
23 does not have any information with respect to any open or
24 potential pending investigations with respect to the victim.
25 And even if there were any, Your Honor --

1 THE COURT: So that means there is none.

2 MS. JAIMEZ: Your Honor, I am not apprised of any,
3 Your Honor.

4 THE COURT: Well, if you're not, who would be?

5 MS. JAIMEZ: At this time, Your Honor, even if there
6 were a pending investigation, it would not be something that
7 would be appropriate for discussion in open court at this time.

8 THE COURT: Well, you may not think so.

9 Go ahead.

10 MS. JAIMEZ: In addition to the loss and the financial
11 harm, Your Honor, the Court's also directed to look at the
12 history and characteristics of this defendant. This is not a
13 first-time offender, Your Honor. This is not a defendant with
14 one criminal history point. This is a history --

15 THE COURT: Yeah, but I think his criminal history is
16 overstated.

17 MS. JAIMEZ: Well, it does include at least one
18 conviction of violence, of spousal battery, in which he
19 received four months' imprisonment, which is not common for a
20 domestic violence-related charge. Four months' imprisonment
21 followed by three years of probation.

22 But what's more, Your Honor, the defense has posed in its
23 papers that the reason for the criminal history and the
24 admitted substance abuse can be tracked back to the defendant's
25 difficult childhood, and yet again I would emphasize for the

1 Court that, unfortunately, that is the case with many
2 defendants that appear in these courts, and it is not a
3 sufficient basis for the type of variance being requested.

4 Your Honor, the 3553(a) factors also ask that the Court or
5 direct the Court to consider general deterrence. This was an
6 easy crime, Your Honor, a technologically easy crime that has
7 made it to the media. People are looking at this case, and if
8 this defendant receives a lenient sentence, notwithstanding the
9 fact that he is a category III defendant, receives a lenient
10 sentence, it sends the message, Your Honor, that the upside for
11 such conduct outweighs any potential prison sentence.

12 By sentencing this defendant, Your Honor, within the
13 guideline range, a midpoint in the guideline range, the Court
14 assists in supporting general deterrence for anyone else who
15 might look at this case as an example, an easy way to make
16 money, especially if one is able to quickly hide the funds.
17 And if the sentence is simply 24 months, well, the upside might
18 outweigh the downside.

19 THE COURT: So you think somebody's going to sit down
20 and say, "Gee, the Court imposed 24 months on Mr. Brank, so now
21 that I'm going to participate in this social media extortion,
22 I'm going to weigh the risk and the benefits based upon a
23 24-month sentence"?

24 MS. JAIMEZ: That's one possibility, Your Honor.

25 THE COURT: It's a possibility, but it's totally

1 unrealistic. But nonetheless, you have anything else you want
2 to add?

3 MS. JAIMEZ: Yes, Your Honor.

4 THE COURT: All right. Well, be brief. Because I've
5 read your papers, and right now you're just simply repeating
6 what's in your papers.

7 MS. JAIMEZ: The guidelines, the guideline sentence,
8 Your Honor, would also ensure that the Court avoids any
9 unnecessary sentencing disparities. The guidelines are
10 provided to the Court to ensure sentencing consistency for
11 these types of offenses.

12 Now, admittedly, there weren't many offenses of this type
13 now that the Court can refer to. However, I will note for the
14 Court at least two cases that have been cited substantially by
15 the parties in pretrial litigation. I'll turn the Court's
16 attention to Ninth Circuit *Pascucci* as well as Second Circuit
17 *Jackson*.

18 *Pascucci* involved attempted extortion. Not completed
19 extortion, Your Honor. Attempted extortion of only \$5,000.
20 The defendant in that case did not bring a firearm to the
21 meeting where he attempted to recover the proceeds, and the
22 defendant in the *Pascucci* case did not continue attacking the
23 victim, based on the record we have. In that case, the Court
24 sentenced the defendant to 36 months, beyond what the defense
25 here is asking.

1 *Jackson*, Your Honor, also involved attempted extortion,
2 not completed extortion as we have here. No financial loss as
3 we have here. No evidence of a gun as we have here. And the
4 main protagonist in that case received 63 months.

5 Your Honor, in this case, there was substantial extortion
6 that spanned weeks. Substantial harm to the victim. There's a
7 need to send a message of general deterrence and to promote
8 respect for the law, and the government would recommend a
9 within-guideline sentence of 80 months.

10 Thank you, Your Honor.

11 THE COURT: What about Mr. Yim? He got probation. If
12 you're talking about sentencing disparity, don't we have to
13 focus on Mr. Yim, who was actually the individual who was
14 responsible for obtaining the weapon, and he was the individual
15 who was in the car with the weapon, and at least Mr. Brank
16 expected him to use the weapon in the case of trouble? I
17 believe, my memory serves me, Mr. Yim was not on board with
18 that concept, but how do you justify the within-guideline
19 sentence and Mr. Yim receiving a probationary sentence, to
20 which he immediately went out and violated the terms of his
21 supervised release?

22 MS. JAIMEZ: Your Honor, Mr. Yim was not involved in
23 the extortion, and most importantly --

24 THE COURT: He wasn't involved in the extortion? Then
25 what was he doing in the Starbucks parking lot with a gun on

1 the day in question when Mr. Brank was there to pick up the
2 million dollars?

3 MS. JAIMEZ: He wasn't -- correction, Your Honor. He
4 was not involved with the initial planning of the extortion, as
5 Brank was. And most importantly, Your Honor, the defendant Yim
6 who you're referring to only obtained the gun at Mr. Brank's
7 request. It was the defendant who reached out to Mr. Yim to
8 find a gun. It was the defendant who traveled to Mr. Yim's
9 acquaintance's house to obtain the gun and then traveled to
10 Los Angeles, separated it from the firing range equipment, put
11 it in his backpack, with ammunition, and made sure that it was
12 in the getaway car and told Mr. Yim to use it if necessary.

13 THE COURT: All right. You want a chance to --

14 MS. AHMAD: No, Your Honor. Nothing further.

15 THE COURT: All right. Is there any legal reason why
16 sentence should not be imposed?

17 MS. AHMAD: No, Your Honor.

18 THE COURT: All right. In fashioning the sentence to
19 be imposed in this case, I've made an individualized assessment
20 based upon the facts and arguments presented by the parties,
21 and I've considered and applied all of the 3553(a) factors.
22 However, I wish -- I think it's important to discuss several of
23 those factors.

24 The first factor is the nature and circumstances of the
25 offense. In my view, this is a very serious offense and

1 requires a substantial prison sentence. Because the Court has
2 presided over numerous pretrial motions and hearings and the
3 actual trial of this case, I'm fully aware of the nature and
4 circumstances. However, in summary:

5 The victim in this case met the defendant through a
6 pay-for-sex encounter in 2013. As established at trial, the
7 victim is a wealthy executive who traveled in influential
8 circles and had an interest in younger, attractive men who
9 worked in the gay pornography industry. After their initial
10 encounter, the victim began paying the defendant to refer other
11 actors in the pornography industry, and escorts, to him for
12 paid sexual encounters. The victim continued to pay the
13 defendant for his sexual encounters with the defendant. The
14 victim paid the defendant for sex approximately four times, and
15 for referrals about the same number of times. In each
16 instance, the defendant received approximately \$1,500 to
17 \$2,000.

18 The pay-for-sex arrangement between the victim and the
19 defendant began to deteriorate in early 2015 when the defendant
20 refused to return a referral fee for a sexual encounter that
21 never happened. The defendant became upset and angry when the
22 victim told the defendant that he did not think or believe that
23 they could continue to have a working relationship.
24 Thereafter, the defendant proceeded to send the victim a series
25 of threatening text messages warning the victim that he was,

1 quote, feeling evil, end of quote, and he could bring the
2 victim's house down. Specifically, the defendant warned the
3 victim that he had a Twitter account and that -- and I'm
4 quoting -- lies can be made, closed quote, and truths told
5 through that medium.

6 The defendant's text messages and his, in my view,
7 outrageous conduct in this case, clearly evidence the
8 defendant's evil and criminal intent. The text messages are
9 quoted at length at pages 3 and 4 of the government's
10 sentencing memorandum and will not be repeated here.

11 What's always been, in my view, the most damning evidence
12 of the defendant's incredible and outrageous greed is the fact
13 that after successfully extorting the victim out of \$500,000
14 and an automobile worth \$180,000, he didn't simply enjoy the
15 car and the money, which was significantly more than the
16 defendant had ever earned in his lifetime. Instead, he
17 embarked upon a plan or a scheme to extort an additional
18 million dollars from the victim in March of 2015. As that
19 scheme to extort an additional one million dollars unfolded,
20 he enlisted the assistance of his friend, Mr. Yim, who I've
21 discussed with government counsel, who obtained a .357 Colt
22 revolver that they brought with them to the Starbucks on
23 March 4, 2015, where the delivery or the exchange of the
24 one-million-dollar payment was to take place.

25 Prior to the exchange, the defendant told the victim over

1 the phone that he was not coming alone, that if anything else
2 should happen, he had what he needed for anything else.

3 Moreover, the defendant's friend and companion that evening,
4 Mr. Yim, testified at trial that defendant told him to use the
5 weapon if anyone started shooting at the defendant. The
6 defendant was adamant and continuing his efforts to extort an
7 additional one million dollars, and if anything should go
8 wrong, if the feds should show up, for example, based upon the
9 evidence at trial, the defendant was prepared to use force.

10 The defendant seeks to downplay the existence of the gun
11 and correctly notes that it was Yim who provided gun, that it
12 was not loaded and not on the defendant's person but in the
13 car. However, it was defendant's idea to obtain the gun and
14 bring the gun to the Starbucks, and in statements as to what
15 Yim was expected or supposed to do if defendant was shot at,
16 clearly suggest that he expected Mr. Yim to use the gun if
17 trouble occurred.

18 What's even more troubling, is even after the defendant
19 was arrested, he continued his efforts to hurt or harm the
20 victim in this case. As the government points out and is seen
21 from Exhibits 3 and 4, the defendant tried and ultimately did
22 release a statement to the media where he portrayed himself as
23 an innocent victim and accused the victim of criminal acts.
24 Defendant suggested that the victim had raped him and was a
25 sexual predator. As the Court recalls from the various

1 hearings in this case, he also falsely accused the victim of
2 sexual contact with minors, which the government undertook an
3 investigation and ultimately concluded that those claims were
4 false.

5 At the same time that the defendant was continuing his
6 efforts to hurt the victim, the defendant was attempting to
7 communicate, in my view, a phony apology to the victim, hoping
8 that the victim would drop the charges against him.

9 As to the history and characteristics of the defendant, I
10 agree with counsel's arguments that this is a case that is
11 above most of the cases that the Court sees in terms of the
12 abuse that the defendant suffered during his childhood. As the
13 defendant's sentencing memo points out and the presentence
14 report notes, Mr. Brank is the seventh of ten children born to
15 his immigrant parents, who moved to the United States when
16 Mr. Brank was very young. Mr. Brank's parents inflicted
17 unimaginable pain on him. Mr. Brank's father would grab him by
18 the throat, slam him against walls and tables. The defendant
19 was whipped with a vacuum cord and beaten with wooden spoons
20 and belts. Defendant's father chained him to his bed, chained
21 him to a post outside, telling the defendant that now he knows
22 how animals feel.

23 The abuse suffered by Mr. Brank came from his mother as
24 well. She had a violent temper, and on one occasion, as
25 counsel points out, threw knives at two of her children. And

1 it was the defendant who witnessed his mother's hanging by her
2 neck in the family garage in an attempted suicide.

3 The defendant clearly lacked parental affection and
4 supervision as a child. As described in the presentence
5 report, the defendant and his siblings would escape their
6 abusive home by wandering around the neighborhood and playing
7 at friends' homes.

8 When Mr. Brank was very young, he was also molested by a
9 neighbor. And the description of the conduct, the criminal
10 conduct by that neighbor as against Mr. Brank, is described in
11 the revised presentence report, and I'm not going to go into
12 that now, out of respect for Mr. Brank's privacy.

13 The defendant's siblings have declined to provide
14 sentencing letters that discuss family abuse, out of fear of
15 revealing information of a criminal nature about their parents.
16 However, a letter has been submitted by one of Mr. Brank's
17 sisters, as well as several friends, and those letters have
18 been helpful to the Court in trying to understand the
19 defendant. In addition, defense counsel has spoken with
20 several of Mr. Brank's siblings and confirmed the abuse by his
21 parents that has been extensively described in the presentence
22 report and the defendant's sentencing memorandum. The defense
23 counsel has also confirmed that one of defendant's brothers
24 also suffered sexual abuse by one of the neighbors that abused
25 Mr. Brank.

1 The defendant does have a criminal record; however, I
2 conclude that the criminal history category of III is somewhat
3 overstated, because the record primarily consists of
4 traffic-related offenses. However, what is troublesome about
5 his record is that he has a history of physically abusing his
6 spouse. Although the presentence report indicates he was only
7 18 or 19 years old at the time of these incidents, he does have
8 a history of hitting women, which, in my view, such conduct is
9 inexcusable.

10 The defendant has substance abuse issues that are detailed
11 in the presentence report and the defendant's sentencing
12 position paper and suggest that those issues contributed to his
13 poor decisions, making his attempts or efforts to extort
14 millions of dollars from the victim. Although I accept his
15 argument, I'm convinced that defendant's decisions in this case
16 were motivated by plain, old-fashioned greed.

17 The defendant does have the love and support of his
18 girlfriend and those friends that have submitted letters on his
19 behalf. I provided counsel with a second letter from
20 Mr. Hattig, who recognized immediately that the evidence
21 against the defendant was overwhelming, and apparently who, to
22 no avail, tried to convince the defendant to plead guilty. I
23 still don't quite understand why he has taken such an interest
24 in the defendant or his case; however, his interest apparently
25 is sincere, genuine and innocent and as a result of his

1 friendship. I do recall that at one or maybe more than one
2 hearing, I had some rather harsh words about him, and although
3 I may have suggested that he was involved in some wrongdoing, I
4 can see now that my suspicions were totally unfounded. He is
5 certainly correct in his letter that if the defendant had
6 accepted responsibility and entered a plea of guilty, he would
7 be facing a significantly lower sentence. However, to suggest
8 that the defendant's attorneys had not properly advised him is,
9 as I've indicated before, absurd.

10 The defendant's attorneys provided him with outstanding
11 advice and representation. Unfortunately, when confronted with
12 a client such as defendant, who refuses to accept
13 responsibility and cannot be convinced that their expectations
14 of acquittal are totally unrealistic, there is no alternative
15 but to try the case. Of course, based upon the overwhelming
16 evidence the government had against him, counsel's job was not
17 only an uphill battle, but virtually impossible, because there
18 was virtually no viable defense to these charges.

19 However, I do want to note that the defense motion
20 practice in this case was excellent, and as I indicated before,
21 with the result of the suppression of the gun and ultimately
22 with the help of the Supreme Court, the Court dismissed the
23 924(c) count, which of course would have added an additional
24 five-year consecutive sentence. And now that the government
25 has dismissed its appeal of the 924(c) count, the defendant is

1 no longer at risk of a consecutive five-year sentence.

2 As I indicated, the presentence report indicates that the
3 defendant's worked in the gay pornography industry as an actor
4 for several years, and when not acting, he worked as a
5 residential painter. And although he has been employed, he has
6 very little to show for it and has a negative net worth of
7 approximately \$15,000.

8 I've also considered and taken into account the advisory
9 guideline range, and the Court finds that the advisory
10 guideline range adequately takes into consideration the
11 specific facts and circumstances of this case and that the
12 range established by the guidelines is sufficient to satisfy
13 the purposes of sentencing.

14 The next factor that I have considered is unwarranted
15 sentencing disparity, and I have considered this factor and
16 conclude that to the extent any disparity exists, it's not
17 unwarranted, and it's fully justified by the unique
18 circumstances of this case, which include the presence of
19 significant aggravating factors.

20 I've also taken into consideration and will enter an order
21 of restitution in the amount of \$500,000.

22 In fashioning the sentence in this case, I've also
23 considered the goals or purposes of sentencing, and I conclude
24 that the Court's sentence is sufficient but not greater than
25 necessary to meet the four purposes of sentencing. I've

1 already concluded that this is a very serious offense and
2 requires a sentence that will promote respect for the law and
3 provide just punishment.

4 As to deterrence, the Court concludes that given the facts
5 of this case, both specific and general deterrence are
6 appropriate to goals of a just sentence. Specific deterrence
7 will discourage this defendant from committing such crimes
8 again, and general deterrence will be satisfied because the
9 sentence will send a clear message that this type of crime will
10 not be tolerated by the law, and hopefully it will discourage
11 others from committing such a crime.

12 A related and justifiable reason for punishment in this
13 case is the legitimate concern that anything but a substantial
14 prison sentence would be rightly regarded as deprecating the
15 seriousness of this crime.

16 So for all of the foregoing reasons, the Court imposes the
17 following sentence:

18 It is ordered that the defendant shall pay to the
19 United States a special assessment of \$600, which is due
20 immediately. Any unpaid balance shall be due during the period
21 of imprisonment at the rate of not less than \$25 per quarter
22 and pursuant to the Bureau of Prisons' Inmate Financial
23 Responsibility Program.

24 It is ordered that the defendant shall pay restitution in
25 the total amount of \$500,000 to the victim in this case

1 pursuant to 18 United States Code, Section 3663(a).

2 Restitution shall be due during the period of imprisonment
3 at the rate of not less than \$25 per quarter and pursuant to
4 the Bureau of Prisons' Inmate Financial Responsibility Program.
5 If any amount of restitution remains unpaid after release from
6 custody, nominal monthly payments of at least 10 percent of the
7 defendant's gross monthly income, but not less than a hundred
8 dollars, whichever is greater, shall be made during the period
9 of supervised release and shall begin 30 days after the
10 commencement of supervision. Nominal restitution payments are
11 ordered, as the Court finds that the defendant's economic
12 circumstances do not allow for either immediate or future
13 payment of the amount ordered.

14 Pursuant to 18 United States Code, Section 3612(f)(3)(A),
15 interest on the restitution ordered is waived, because the
16 defendant does not have the ability to pay interest. Payments
17 may be subject to penalties for default and delinquency
18 pursuant to 18 United States Code, Section 3612(g).

19 The defendant shall comply with General Order 01-05.

20 All fines are waived, as it is found that the defendant
21 does not have the ability to pay a fine in addition to
22 restitution.

23 The Court has entered a money judgment of forfeiture
24 against the defendant, which is incorporated by reference into
25 this judgment and is final.

1 Pursuant to the Sentencing Reform Act of 1984, it's the
2 judgment of the Court that the defendant is hereby committed on
3 Counts 1 through 6 of the first superseding indictment to the
4 custody of the Bureau of Prisons for a term of 70 months. This
5 term consists of 70 months on each of Counts 2 and 5 of the
6 first superseding indictment, 60 months on Count 6 of the first
7 superseding indictment, 36 months on each of Counts 3 and 4 of
8 the first superseding indictment, and 24 months on Count 1 of
9 the first superseding indictment, all to be served
10 concurrently.

11 Upon release from imprisonment, the defendant shall be
12 placed on supervised release for a term of three years. This
13 term consists of three years on each of Counts 2, 5, and 6 of
14 the first superseding indictment, and one year on each of
15 Counts 1, 3, and 4 of the first superseding indictment, all
16 such terms to run concurrently under the following terms and
17 conditions:

18 1. The defendant shall comply with the rules and
19 regulations of the U.S. Probation Office, General Order 05-02
20 and General Order 01-05, including the three special conditions
21 delineated in General Order 01-05.

22 2. During the period of community supervision, the
23 defendant shall pay the special assessment and restitution in
24 accordance with this judgment's orders pertaining to such
25 payment.

1 3. The defendant shall cooperate in the collection of a
2 DNA sample from the defendant.

3 4. The defendant shall not commit any violation of local,
4 state, or federal law or ordinance.

5 5. The defendant shall comply with the immigration rules
6 and regulations of the United States, and if deported from this
7 country either voluntarily or involuntarily, not re-enter
8 United States illegally. The defendant is not required to
9 report to the probation officer while residing outside of the
10 United States; however, within 72 hours of release from any
11 custody or re-entry to the United States during the period of
12 court-ordered supervision, the defendant shall report for
13 instructions to the U.S. Probation Office located in this
14 building.

15 6. The defendant shall refrain from any unlawful use of a
16 controlled substance. The defendant shall submit to one drug
17 test within 15 days of release from imprisonment, and at least
18 two periodic drug tests thereafter, not to exceed eight tests
19 per month, as directed by the probation officer.

20 7. The defendant shall participate in an outpatient
21 substance abuse treatment and counseling program that includes
22 urinalysis, breath and/or sweat patch testing, as directed by
23 the probation officer. The defendant shall abstain from using
24 alcohol and illicit drugs and from abusing prescription
25 medications during the period of supervision.

1 8. During the course of supervision, the probation
2 officer, with the agreement of defendant and his counsel, may
3 place the defendant in a residential drug treatment program
4 approved by the United States probation officer for the
5 treatment of narcotic addiction or drug dependency, which may
6 include counseling and testing to determine if the defendant
7 has reverted to the use of drugs, and the defendant shall
8 reside in the treatment program until discharged by the program
9 director and the probation officer.

10 9. As directed by the probation officer, the defendant
11 shall pay all or part of the cost of treating the defendant's
12 drug dependency to the aftercare contractor during the period
13 of community supervision pursuant to 18 United States Code,
14 Section 3672. The defendant shall provide payment and proof of
15 payment as directed by the probation officer.

16 10. The defendant shall apply all monies received from
17 any income tax refunds to the outstanding court-ordered
18 financial obligation. In addition, the defendant shall apply
19 all money received from lottery winnings, inheritance,
20 judgments, any other anticipated or unexpected financial gains
21 to the outstanding court-ordered financial obligation.

22 The Court authorizes the probation officer to disclose the
23 presentence report to the substance abuse treatment provider to
24 facilitate the defendant's treatment for narcotic addiction or
25 drug dependency. Further disclosure of the presentence report

1 by the treatment provider is prohibited without the consent of
2 this Court.

3 I want to advise the defendant that if you wish to appeal
4 your conviction and your sentence, you must file a notice of
5 appeal within 14 days of today or you will lose your right to
6 an appeal. If you're unable to afford an attorney for your
7 appeal, one may be appointed at no cost to you.

8 I will make a recommendation that the defendant be
9 permitted to participate in the Bureau of Prisons' RDAP
10 program.

11 Do you want me to make a recommendation in terms of a
12 location?

13 MS. AHMAD: Your Honor, Mr. Brank would like to remain
14 within Southern California, if possible.

15 THE COURT: All right. I will make a recommendation
16 to the Bureau of Prisons for a Southern California designation.

17 MS. AHMAD: Just one other issue, Your Honor.

18 On the restitution amount, I've conferred with government
19 counsel from the forfeiture section, and my understanding is
20 that once the judgment -- J & C is final, the funds that were
21 seized from Mr. Brank will be a credit against the restitution,
22 and so I believe government counsel and I are in agreement that
23 the balance will be \$54,004.40.

24 THE COURT: Well, but I'm going to continue the amount
25 of restitution in the judgment of conviction, and then he'll

1 get a credit for that.

2 All right. Anything else?

3 MS. JAIMEZ: Not from the government, Your Honor.

4 MS. AHMAD: Nothing further, Your Honor.

5 THE COURT: All right. Thank you very much.

6 Oh, the clerk has just advised me, or told me, or
7 suggested to me that the government should have a motion with
8 respect to the underlying indictment in this case.

9 MS. JAIMEZ: Could you clarify, Your Honor?

10 THE COURT: You're going to dismiss the underlying
11 indictment?

12 MR. JAUREGUI: The what indictment?

13 MS. JAIMEZ: The underlying indictment?

14 THE COURT: He was sentenced on the first superseding
15 indictment.

16 MR. JAUREGUI: Correct.

17 MS. JAIMEZ: Oh, yes.

18 THE COURT: So we have an underlying indictment.

19 MS. JAIMEZ: Yes, Your Honor. The government --

20 THE COURT: So is the government going to move to
21 dismiss the underlying indictment?

22 MS. JAIMEZ: Yes, Your Honor.

23 THE COURT: All right. That motion will be granted.

24 MS. JAIMEZ: Thank you, Your Honor.

25 MS. AHMAD: Thank you, Your Honor.

1 THE COURT: All right. Thank you very much.

2 THE CLERK: All rise.

3 This court is adjourned.

4

5 *(Proceedings concluded at 10:14 a.m.)*

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CERTIFICATE

3 I hereby certify that pursuant to Section 753,
4 Title 28, United States Code, the foregoing is a true and
5 correct transcript of the stenographically reported proceedings
6 held in the above-entitled matter and that the transcript page
7 format is in conformance with the regulations of the
8 Judicial Conference of the United States.

10 Date: OCTOBER 28 2015

/S/ SANDRA MACNEIL

Sandra MacNeil, CSR No. 9013